

REMARKS/ARGUMENTS

Applicant submits this amendment in response to the Office Action mailed February 23, 2006. A petition for a one-month extension of the term for response to said Office Action, to and including June 23, 2006, is transmitted herewith.

Applicant respectfully requests reconsideration and allowance of claims 1, 3-8, 10-12 and 14-21 that are pending in the present application. Applicant has amended claims 4-6. No new matter has been added by these claim amendments. By the present amendment, applicant has cancelled claim 13.

Claims 4-8 were objected to for the formalities of claims 4-6 reciting a single hair contacting element, but the Examiner was unclear as to which hair contacting element is being recited. (Office Action at page 2). Applicant has amended claims 4-6 to refer to "said at least one of said hair contacting elements." As such, applicant submits that the rejection should be withdrawn.

Claim 13 was objected to for the formalities of claim 13 reciting the hair contacting element of claim 12 as though it is separate from the hair styling tool, but as disclosed in the preamble of claim 11, the hair contacting element is part of the hair styling tool. (Office Action at page 2). By the present amendment, applicant has cancelled claim 13.

Claims 1, 3-7, 10, 11, 14-17 and 21 were rejected under 35 U.S.C. 103(a) as being unpatentable over Tsuji et al. (U.S. Patent 5,223,694), hereinafter "Tsuji" in view of Henneberger et al. (U.S. Patent 4,658,520), hereinafter "Henneberger." Specifically, the Examiner contends that "Henneberger teaches how placing apertures (steam escape holes 6) in grooves (11) on the ironing surface of a steam iron distributes the steam across the work surface." (Office Action at page 3). The Examiner contends that "it would have been obvious to one having ordinary skill in the art at the time the invention was made to place the apertures of Tsuji et al. in grooves, as taught by Henneberger, in order to distribute the steam across the work surface (hair). (Id.)

Applicant respectfully submits that the Examiner has failed to establish a motivation to combine the teachings of Tsuji and Henneberger. Applicant respectfully submits that the Examiner has engaged in improper hindsight reconstruction by picking and choosing teachings of the two references after the benefit of reading the instant application. To reach a proper determination under 35 U.S.C. §103, knowledge of the applicant's disclosure must be put aside in reaching this determination, and the legal conclusion must be reached on the basis of the facts gleaned only from the prior art. The references in no way teach or suggest substituting the steam distribution grooves 11 from a steam iron soleplate 4 of Henneberger for the minute vents 12 in the surfaces of the first pipe 10 of the hair styling device of Tsuji. The steam iron of Henneberger is used to iron clothes, while the hair styling device of Tsuji is used to style hair, not to iron clothes.


As such, the motivation that the Examiner relies upon is found only in applicant's disclosure. Therefore, the Examiner's reasoning (1) does not establish a motivation to combine the teachings of Tsuji and Henneberger; and (2) amounts to improper hindsight reconstruction, as opposed to the reconstruction prescribed by M.P.E.P. §§ 2142 and 2143.

Claims 8, 12, 13, and 18-20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Tsuji in view of Lo (U.S. Patent 6,223,753). As previously noted, however, the Examiner has failed to establish a motivation to combine the teachings of Tsuji and Henneberger. Claim 8 is incorporated by dependency in claim 1, and claims 12, 13 and 18-20 are incorporated by dependency in claim 11. As nothing has been asserted in Lo as teaching anything that would remedy this deficiency in Tsuji and Henneberger, applicant respectfully submits that the rejection should be withdrawn.

In view of the foregoing, applicant respectfully requests favorable reconsideration and withdrawal of the rejections of the claims. Also, applicant respectfully requests that this application be passed to allowance.

Respectfully submitted,

Dated: 6/23/06



Steven A. Garner, Esq.
Registration No. 52,475
Attorney for Applicants
Conair Corporation
One Cummings Point Rd
Stamford, CT 06902
Tel: (203) 921-2844